IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.653 OF 2005
IN
CHAMBER SUMMONS NO.1908 OF 2004
IN
TESTAMENTARY PETITION NO.622 OF 2004

Nitin Nathalal Parikh Appellant

versus

Pedrina Alias Pedrinna Alias
Martha Fernandes Respondent

Mr.Palan i/by M/s.B.R.Oza & Co. for appellant.

Mr.G.S.Hiranandani for respondent.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 19th September 2005

PC :

1. Heard learned counsel for the appellant and respondent. Learned counsel for the respondent submits that the probate has already been granted by this Court on 3rd September 2005. Over and above, the appellant has already filed a suit against the deceased Dr.Rustom Jehangir Mehta for recovery of possession of the tenanted premises being a landlord and it appears that even Martha Fernandes - petitioner in the Testamentary

proceedings, has also been impleaded in the suit filed before the Court of Small Causes. The learned Single Judge has rightly observed that the appellant has no caveatable interest in the estate of the deceased. We do not find any illegality in the impugned order. The appeal stands dismissed. It is made clear that this order will not come in the way of the appellant proceeding further with regard to the proceedings pending before the Court of Small Causes.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)